

**FILED**

OA 91 Criminal Complaint

JUL 21 2008

**United States District Court**

NORTHERN

DISTRICT OF

CALIFORNIA

RICHARD W. WIEKING  
U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA

V.

GUILLERMO HERRERA

CRIMINAL COMPLAINT

Case Number: **3 08 70457****MEJ**

(Name and Address of Defendant)

I, the undersigned complainant being duly sworn state that the following is true and correct to the best of my knowledge and belief. On or about July 15, 2008 in San Francisco County, in the Northern District of California defendant(s) did,

(Track Statutory Language of Offense)

See Attachment A

in violation of Title 18 United States Code, Section(s) 1546

Possession of forged, counterfeited, altered, or falsely made Permanent Resident Alien Card

I further state that I am a(n) Special Agent of ICE and that this complaint is based on the following facts:

See Attachment B

Continued on the attached sheet and made a part hereof:

☒ Yes ☐ No

Approved

As To W.S. Wilson LeungForm: AUSA

Jason Red

Name/Signature of Complainant

Sworn to before me and subscribed in my presence,

July 21, 2008

Date

at San Francisco California

City and State

HON. MARIA-ELENA JAMES

U.S. MAGISTRATE JUDGE

Name &amp; Title of Judicial Officer

Signature of Judicial Officer

**ATTACHMENT A**

**Count One**

unlawfully, willfully, and knowingly utter, use, attempt to use, possess, obtain, accept, and receive any immigrant or nonimmigrant visa, permit, border crossing card, alien registration receipt card, and other document prescribed by statute and regulation for entry into and as evidence of authorized stay and employment in the United States, knowing it to be forged, counterfeited, altered, and falsely made.

**ATTACHMENT B**


**AFFIDAVIT OF JASON RED**

I, JASON RED, Special Agent with Immigration and Customs Enforcement, being duly sworn, do declare and state:

1. I am a Special Agent with Immigration and Customs Enforcement (“ICE”) and have been so employed since 2004. I am presently assigned to ICE’s San Francisco office. As part of my duties at ICE, I investigate violations of federal law, including violent crimes and crimes committed by street gangs, as well as violations of federal immigration laws.
2. This Affidavit is made in support of a Criminal Complaint charging **GUILLERMO HERRERA** with possession of a forged, counterfeited, altered, or falsely made Permanent Resident Alien Card, in violation of Title 18, United States Code, Section 1546.
3. Because this Affidavit is submitted for the limited purpose of establishing probable cause for an arrest warrant, I have not included each and every fact known to me that supports probable cause for arrest. Rather, I have set forth only the facts that I believe are necessary to support the lawful arrest of the individual listed in this Affidavit.
4. Where statements made by other individuals (including other Special Agents and law enforcement officers) are referenced in this Affidavit, such statements are described in sum and substance and in relevant part. Similarly, where information contained in reports and other documents or records are referenced in this Affidavit, such information is also described in sum and substance and in relevant part.
5. I learned the following from reviewing reports of the San Francisco Police Department (the “SFPD”), the criminal records of **GUILLERMO HERRERA**, and from speaking with a member of the SFPD (the “Inspector”) who is familiar with this case:
  - a. In or about June 2007, **HERRERA** was arrested by the SFPD for participating in a criminal street gang and assault with a deadly weapon. In or about August 2007, **HERRERA** pleaded guilty to the reduced charge of battery resulting in serious bodily injury, and received a principal sentence of three years’ probation and 62 days’ jail. As a special condition of **HERRERA**’s probation, the sentencing court ordered that **HERRERA** was prohibited from being in the area defined by Mission Street, 16<sup>th</sup> Street, and 20<sup>th</sup> Street in San Francisco’s Mission District (the “Prohibited Area”). This special condition was set because the sentencing court determined that **HERRERA** was a member of a street gang that engaged in criminal activities in the prohibited area.

- b. On or about July 15, 2008, officers of the SFPD who recognized **HERRERA** from prior contacts with him and who were aware of the existence of the special probation condition for **HERRERA** observed him within the Prohibited Area. As a result, after confirming via computer that **HERRERA**'s special probation condition was still active, the officers arrested **HERRERA**.
  - c. After arresting **HERRERA**, the officers searched **HERRERA** and found, among other things, what appeared to be a Permanent Resident Alien Card, commonly known as a "Green Card." The officers who examined **HERRERA**'s Green Card suspected that the Green Card was fraudulent.
  - d. Among other things, **HERRERA** was charged with possession of a false identification, but these charges were dismissed on or about July 16, 2008.
- 6. Based on my review of the immigration and criminal records for **GUILLERMO HERRERA**, I know that **HERRERA** is male and has a listed birth date of September 3, 1988. **HERRERA**'s immigration records also indicate that he is illegally in the United States. He has filed an asylum application, which is presently pending, and, prior to his July 15, 2008 arrest, was on bail pending resolution of his immigration status.
- 7. Following the dismissal of the charges by the SFPD, **GUILLERMO HERRERA** was transferred to ICE custody for immigration proceedings, and the Green Card that was found on him was provided to ICE. I know from my experience and training that a Green Card is an official document of the United States Government that is issued to verify that the issuee has been granted lawful permanent resident status in the United States. Among other things, a Green Card contains a photograph and the name of the individual to whom the Card is issued, as well as a serial number.
- 8. I have examined **GUILLERMO HERRERA**'s Green Card and I believe that it was forged, counterfeited, or otherwise falsely made. Among other things: (a) I know from my review of **HERRERA**'s immigration file that he has not been granted legal permanent resident status and therefore would not have been issued a Green Card; (b) the printing and appearance of **HERRERA**'s Green Card does not match those of Permanent Alien Resident Cards that I know are genuine; and (c) although **HERRERA**'s photograph and name are on his Green Card, I checked the number on **HERRERA**'s Green Card with an immigration database and learned that the number on **HERRERA**'s Green Card was actually issued to a woman who was born in 1912.

9. Based on the foregoing, I hereby assert that probable cause exists to believe that **GUILLERMO HERRERA** is in violation of Title 18, United States Code, Section 1546, i.e., unlawfully, willfully, and knowingly possessing a forged, counterfeited, altered, or falsely made Permanent Resident Alien Card.

  
\_\_\_\_\_  
JASON RED  
Special Agent  
Immigration and Customs Enforcement

Sworn to and subscribed before me  
this 21st day of July, 2008

  
\_\_\_\_\_  
HONORABLE MARIA-ELENA JAMES  
UNITED STATES MAGISTRATE JUDGE



AO 257 (Rev. 6/78)

**DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT**
 BY: ☒ COMPLAINT ☐ INFORMATION ☐ INDICTMENT  
☐ SUPERSEDING
**OFFENSE CHARGED**
 Possession of forged, counterfeited, altered, or  
 falsely made Permanent Resident Alien Card,  
 18 U.S.C. Sec. 1546

☐ Petty  
☐ Minor  
☐ Misdemeanor  
☒ Felony
**PENALTY:**
 10 years' imprisonment; 3 years' supervised release; \$250,000 or  
 2x gain/loss fine; \$100 special assessment
**PROCEEDING**
 Name of Complainant Agency, or Person (& Title, if any)  
 ICE - Jason Red

☐ person is awaiting trial in another Federal or State  
 Court, give name of court

☐ this person/proceeding is transferred from another  
 district per (circle one) FRCrP 20, 21 or 40. Show  
 District

☐ this is a re prosecution of  
 charges previously dismissed  
 which were dismissed on  
 motion of:

☐ U.S. Att'y ☐ Defense

☐ this prosecution relates to a  
 pending case involving this same  
 defendant

☐ prior proceedings or appearance(s)  
 before U.S. Magistrate regarding  
 this defendant were recorded under

 SHOW  
 DOCKET NO.

 MAGISTRATE  
 CASE NO.

 Name and Office of Person  
 Furnishing Information on  
 THIS FORM

Joseph P. Russoniello

☒ U.S. Att'y ☐ Other U.S. Agency

 Name of Asst. U.S. Att'y  
 (if assigned)

W. S. Wilson Leung

 Name of District Court, and/or Judge/Magistrate Location  
 NORTHERN DISTRICT OF CALIFORNIA
**DEFENDANT - U.S.**

GUILLERMO HERRERA

DISTRICT COURT NUMBER

**DEFENDANT****IS NOT IN CUSTODY**

- 1) ☒ Has not been arrested, pending outcome this proceeding.  
 If not detained give date any prior summons  
 was served on above charges
- 2) ☐ Is a Fugitive
- 3) ☐ Is on Bail or Release from (show District)

**IS IN CUSTODY**

- 4) ☐ On this charge
- 5) ☐ On another conviction
- 6) ☐ Awaiting trial on other charges } ☐ Fed'l ☐ State

If answer to (6) is "Yes", show name of institution

San Francisco County Jail

 Has detainer been filed? ☐ Yes ☒ No } If "Yes" give date filed

**DATE OF  
 ARREST**

Month/Day/Year

Or... if Arresting Agency &amp; Warrant were not

Month/Day/Year

**DATE TRANSFERRED  
 TO U.S. CUSTODY**
☐ This report amends AO 257 previously submitted
**ADDITIONAL INFORMATION OR COMMENTS****PROCESS:**
☐ SUMMONS ☐ NO PROCESS\*
☒ WARRANT

Bail Amount: No bail

If Summons, complete following:

☐ Arraignment ☐ Initial Appearance

Defendant Address:

 \*Where defendant previously apprehended on complaint, no new summons  
 or warrant needed, since Magistrate has scheduled arraignment

Date/Time:

Before Judge:

Comments: